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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,896	03/31/2004	Gehad Galal	42P17828	5761
8791 7590 12/08/2008 BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP 1279 OAKMEAD PARKWAY SUNNYVALE, CA 94085-4040				
EXAMINER				
ZHE, MENG YAO				
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2195				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/813,896

Applicant(s)

GALAL ET AL.

Examiner

MENGYAO ZHE

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-24 are presented for examination.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 6-8, 17-21 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

4. Claims 6-8 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The current focus of the Patent Office in regard to statutory inventions under 35 U.S.C. § 101 for method claims and claims that recite a judicial exception (software) is that the claimed invention recite a practical application. Practical application can be provided by a physical transformation or a useful, concrete and tangible result. No physical transformation is recited and additionally, the final result of the claim is 6 is reading the control flag which is not a tangible result because the flag is merely read and nothing is done with the flag, thus there is neither a transformation or a concrete result. The following link on the World Wide Web is for the United States Patent And Trademark Office (USPTO) policy on 35 U.S.C. §101.

http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/guidelines101_20051026.pdf

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5. Claims 17-21 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims are directed to a signal directly or indirectly by claiming a medium and the Specification recites evidence where the computer readable medium is define as a "wave" (such as a carrier wave). In that event, the claims are directed to a form of energy which at present the office feels does not fall into a category of invention.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A. The following claims lack antecedent basis:

i) Claim 7, line 3, "the guest virtual machine".

B. The following claim languages are unclear and indefinite:

i) Claim 1, line 2, it is uncertain what a control flag is <i.e. what does it do? Can it be a message? A pointer to a thread? What is it?>.

Line 6, it is unclear where the "shadow location" is <i.e. is it part of the guest virtual machine?>.

Claims 6, 12, 17 have the same deficiencies as claim 1 above.

ii) Claim 5, while it mentioned "a second flag", it is uncertain where in the previous claims had mentioned "a first flag" <i.e. although a first flag is mentioned in claim 2, claim 5 does not depend on claim 2.>

Claims 16 and 21 have the same deficiencies as claims 5 above.

iii) Claim 9, it is uncertain what the difference is between "a shadow location" and a guest virtual machine <i.e. if the shadow location is in the guest virtual machine, then the writing of the control flag will always go to the virtual machine regardless of whether the flag is owned by the guest virtual machine or not. Are there two separate memory locations within the guest VM such that the flag is written to one of them, which is the shadow location, if the flag is not owned by the VM, and to a second location if it is owned by the VM? However, as one can see, the flag will always go to the VM regardless of the ownership. The claim is confusing and unclear.>

Claim 22 has the same deficiencies as claim 9 above.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1, 12, 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Bennett et al, Pub No. US 2004/0117532 (hereafter Bennett).

10. As per claims 1, 12, 17, Bennett teaches a method for writing a control flag, the method comprising: determining whether the control flag is owned by a guest virtual machine (Abstract; Para 26); writing the control flag to a processor control register if the control flag is owned by the guest virtual machine (Para 28: wherever the interrupt got delivered to in the guest software corresponds to the control register owned by the guest virtual machine); and writing the control flag to a shadow location if the control flag is not owned by the guest virtual machine (Para 48: wherever the interrupt gets delivered to in the VMM corresponds to the shadow location.).

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11. Claims 1, 6, 7, 12, 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Donovan et al., Patent No. 7,251,815 (hereafter Donovan).

12. As per claims 1, 12, 17, Donovan teaches a method for writing a control flag, the method comprising: determining whether the control flag is owned by a guest virtual machine (Column 5, line 65-Column 6, line 2); writing the control flag to a processor control register if the control flag is owned by the guest virtual machine (Column 5, lines 43-46; Column 5, line 65-Column 6, line 2); and writing the control flag to a shadow location if the control flag is not owned by the guest virtual machine (Column 5, lines 35-41: the shared work queue corresponds to the shadow location).

13. As per claim 6, Donovan teaches a method for reading a control flag, the method comprising: determining whether the control flag is maintained in a shadow location; reading the control flag from the shadow location if the control flag is maintained in the shadow location; and reading the control flag from a processor control register if the control flag is not maintained in the shadow location (Column 6, lines 20-30: fetching work from either the semi-dedicated work queue or the shared work queue corresponds to reading from either the processor control register or the shadow location respectively).

14. As per claim 7, The method of claim 6, wherein determining whether the control flag is maintained in a shadow location further comprises determining whether the control flag is owned by the guest virtual machine (Column 5, line 65-Column 6, line 2).

Claim Rejections - 35 USC § 103

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. Claims 2, 8, 9, 13, 18, 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Donovan et al., Patent No. 7,251,815 (hereafter Donovan) in view of Khalil et al., Patent No. 7,218,634 (hereafter Khalil).

17. As per claims 2, 8, 9, 13, 18, 22, Donovan teaches a processor comprising: a processor control register to include a control flag (Column 5, lines 27-31); a pointer to a guest virtual machine context (Column 4, lines 22-25); determining whether the control flag is owned by a guest virtual machine associated with the guest virtual machine context (Column 5, line 65-Column 6, line 3); a shadow location in the guest virtual machine context (Column 5, line 41); an execution control unit to cause a write of the control flag by the guest virtual machine to be redirected to the shadow location if the control flag is not owned by the guest virtual machine (Column 5, lines 35-41).

Donovan does not specifically teach a first mask word in the guest virtual machine context, the first mask word to include a first flag to indicate whether the flag is owned by the guest virtual machine.

However, Khalil teaches a method that uses a mask word to determine who the receiver of a message is suppose to go to for the purpose of ensuring correct communication pathway between sender and receiver (Column 7, lines 1-10).

It would have been obvious to one having ordinary skill in the art at the time of the applicant's invention to modify the teachings of Donovan with a method that uses a mask word to determine who the receiver of a message is suppose to go to, as taught by Khalil, such that the mask may be used to determine where the flag should go to in this specific case, because it helps to ensure correct communication pathway between sender and receiver.

18. Claims 3-4, 14-15, 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Donovan et al., Patent No. 7,251,815 (hereafter Donovan) in view of Bugnion et al., Patent No. 6,944,699 (hereafter Bugnion).

19. As per claims 3, 14, 19, Donovan teaches determining whether the control flag is maintained in the shadow location; writing the control flag to the shadow location if the control flag is not owned by the guest virtual machine and is maintained in the shadow location (Column 5, line 65-Column 6, line 3);

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Donovan does not specifically teach exiting to a virtual machine monitor if the control flag is not owned by the guest virtual machine and is not maintained in the shadow location.

However, Bugnion teaches exiting to a virtual machine monitor if the control flag is not owned by the guest virtual machine for the purpose of letting the VMM handle flags that the guest virtual machine cannot handle (Column 6, lines 25-37).

It would have been obvious to one having ordinary skill in the art at the time of the applicant's invention to modify the teachings of Donovan with exiting to a virtual machine monitor if the control flag is not owned by the guest virtual machine, as taught by Bugnion, because it lets the VMM handle flags that the guest virtual machine cannot handle.

20. As per claims 4, 15, 20, Donovan teaches wherein determining whether the control flag is maintained in a shadow location is performed only if the control flag is not owned by the guest virtual machine (Column 5, line 65-Column 6, line 3).

21. Claims 5, 10, 16, 21, 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Donovan et al., Patent No. 7,251,815 (hereafter Donovan) in

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view of Khalil et al., Patent No. 7,218,634 (hereafter Khalil) in view of Bugnion et al., Patent No. 6,944,699 (hereafter Bugnion).

22. As per claims 10, 23, Donovan in view of Khalil does not specifically teach an exit to a virtual machine monitor if the control flag is not owned by the guest virtual machine and is not maintained in the shadow location.

However, Bugnion teaches exiting to a virtual machine monitor if the control flag is not owned by the guest virtual machine for the purpose of letting the VMM handle flags that the guest virtual machine cannot handle (Column 6, lines 25-37).

It would have been obvious to one having ordinary skill in the art at the time of the applicant's invention to modify the teachings of Donovan with exiting to a virtual machine monitor if the control flag is not owned by the guest virtual machine, as taught by Bugnion, because it lets the VMM handle flags that the guest virtual machine cannot handle.

23. As per claims 5, 11, 16, 21, 24, Khalil teaches using different flags to indicate who the proper receiver of a message should be (Column 7, lines 1-10). It would have been obvious to one having ordinary skill in the art to use as many flags as needed according to the number of different receivers such that a system can properly use these flags to determine where the message should go

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to such that wherein the execution control unit is responsive to the second flag only if the first flag indicates that the control flag is not owned by the guest virtual machine, because this allows for proper communication between entities.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MENG YAO ZHE whose telephone number is (571)272-6946. The examiner can normally be reached on Monday Through Friday, 7:30 - 5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on 571-272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service

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Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Meng-Ai An/

Supervisory Patent Examiner, Art Unit 2195